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**RECEIVED**

JAN 11 2010

DIV. OF OIL, GAS & MINING

BEFORE THE BOARD OF OIL, GAS, AND MINING  
 DEPARTMENT OF NATURAL RESOURCES  
 STATE OF UTAH

In the Matter of the Request for Agency  
 Action of **Robert Clark**, Petitioner for a  
 longer suspension period for good cause  
 shown

)  
 ) **APPEAL TO SHOW GOOD CAUSE**  
 ) **FOR EXTENDED SUSPENSION**  
 ) **PERIOD UNDER R647-3-113.5**

) Docket No. \_\_\_\_\_

) Cause No. \_\_\_\_\_

The Board has jurisdiction of this appeal regarding a longer suspension period for good cause shown under R647-3-113.5 as a formal adjudicatory proceeding pursuant to R647-5-101.1.

Because there has been production of valuable minerals at the mine operated by Robert Clark ("**Clark**"), the **Clark 1 Emride Mine; S/015/0053** (the "**Mine**"), Clark is hopeful that we can demonstrate such production to the reasonable satisfaction of the Division of Oil, Gas, and Mining "**DOGM**") such that this appeal is not necessary. Notwithstanding the small but important production from the Mine and the good faith belief that DOGM will be satisfied that

such production has occurred after review of the letter attached hereto as **Exhibit A**, to avoid any loss of Clark's right to appeal to this honorable Board to show good cause for a longer suspension period, Clark is filing this appeal.

Clark hereby requests that the Board take action on this appeal only in the event that DOGM finds that there has not been production at the mine to sufficient to (i) satisfy the requirements under R647-3-113.5 and (ii) thereby avoid the closure of this valuable mine due to a suspension in operations for a period of ten (10) years or more. If further proceedings in this appeal are necessary because DOGM finds there has not been sufficient production, Clark hereby respectfully requests at least thirty (30) days notice of such adverse determination by DOGM and the opportunity to supplement this appeal *before* any further proceedings before this honorable Board.

#### **Showing of Good Cause for Longer Suspension Period**

The Mine is one of several in the immediate area owned or operated by Clark or his brother. The minerals extracted from the Mine and the other mines operated by Clark are used to produce a concentrated natural liquid trace mineral supplement and sold under the name of Clark's Minerals in health food stores and over the internet to customers both inside and outside the United States. The unique mineral deposits are leached with pure water at low temperature to make the beneficial minerals available in colloidal state for human consumption. The uniform strength and quality of Clark's Minerals is carefully controlled by mixing the deposits from the different mines, including the Mine, in the correct quantities. Although only a small amount of the minerals from the Mine at question has been necessary to mix with the stockpiles of minerals from the mines to obtain the desired concentrations over the last ten years, the small amount

from the Mine is still a necessary component of Clark's Minerals. Without the minerals from the Mine, it will impossible for Clark to achieve the best possible Clark's Minerals product, even though the bulk of the minerals for the product come from the stockpiles already at the other mines. The Mine should not be closed just because the amount of production has been small over the last ten years. Clark's Minerals is a viable and profitable business, but the business may be destroyed if future production from the Mine is eliminated.


There is no risk posed to the state of Utah by the continued operation of the Mine, even if the production from the Mine is small. As demonstrated by the October 1, 2009 Inspection Report attached hereto as **Exhibit B**, the Mine was in very good shape overall and posed no risks. There was no need for any enforcement by DOGM, and the general conclusions and recommendations very were favorable: "There really is very little work needing to be done on site. Other than the minor trash to be removed and rain runoff issues, the site is stable." Moreover, the estimated costs for reclamation, which were recently reviewed by DOGM, are only \$5,400.00. Therefore, even if the site posed risk, they are financially insignificant due the limited disturbances at the underground Mine. Given that there is no risk to the State of Utah, the Mine should not be closed pursuant to R647-3-113.5.

Finally, the surface areas used at the Mine are also important in conjunction with the neighboring mines which have had and will continue to have significantly more production in the future. Closing the Mine for lack of sufficient production for the last ten years will adversely affect the other mines in the area. Because there is not real need to close the Mine at this time, the Mine should be allowed to operate at least until there is no need for production from the other neighboring mines that may benefit from the roads and other surface areas at the Mine from time to time.

### Conclusion

For the reasons stated above, the Board should grant a longer period for the suspension of mining at the Mine before reclamation is compelled by DOGM. Again, Clark is hopeful that no action on this appeal is necessary because DOGM will find that sufficient production has occurred at the Mine to satisfy the requirements of R647-3-113.5 regarding mining activity within the last ten years. However, if action on this appeal is necessary, Clark hereby respectfully requests thirty (30) days notice of such adverse determination by DOGM and the opportunity to supplement this appeal *before* any further proceedings before this honorable Board.

Respectfully submitted this 8th day of January, 2010.



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Stucki Steele Pia Anderson & Rencher  
Attorneys for Robert Clark

# Exhibit A

January 8, 2010

Paul B. Baker  
Wayne Western  
Division of Oil, Gas and Mining  
1594 West North Temple  
Suite 1210  
PO Box 145801  
Salt Lake City, UT 84114-5801

Re: *Division Directive to Reclaim, Robert Clark; Clark 1/Emeryide Mine;  
S/015/0053, Emery County, Utah*

Dear Mr. Baker and Mr. Western;

Although the production amounts are admittedly small, there has been important production from the Clark 1/Emeryide mine (the "**Mine**") in 2007 and 2008. Unfortunately, the Division of Oil, Gas and Mining ("**DOGM**") is not aware of that production due to the problems that Robert Clark ("**Clark**") and his spouse have experienced with DOGM's computer reporting system. In both 2007 and 2008, Clark used a pick, shovel, wheelbarrow, and pickup truck to achieve at least a ton of production from the mine. Clark will use his best efforts to file the computer reports of this production on Monday when he is able to obtain telephone assistance from a computer person at DOGM.

While the production from this Mine is small, that small production is nevertheless an extremely important component of the end product that is sold as Clark's Minerals. The minerals extracted from the Mine and the other mines operated by Clark are used to produce a concentrated natural liquid trace mineral supplement and sold under the name of Clark's Minerals in health food stores and over the internet to customers both inside and outside the United States. The unique mineral deposits are leached with pure water at low temperature to make the beneficial minerals available in colloidal state for human consumption. The uniform strength and quality of Clark's Minerals is carefully controlled by mixing the deposits from the different mines, including the Mine, in the correct quantities. Therefore, although only a small amount of the minerals from the Mine at question has been necessary to mix with the stockpiles of minerals from the mines to obtain the desired concentrations over the last ten years, the small amount from the Mine is still a necessary component of Clark's Minerals.

We are happy to come into your office to answer any additional questions that you may have regarding this production and the importance of this production to the Clark's Minerals business owned by Clark. In case you feel that the small amount of production from the Mine is not adequate to prevent a determination that production has been suspended for ten years or more, we have filed an appeal with the Board as a back-up plan to avoid any loss of the right to show good cause for a longer suspension period. However, we have also asked the Board to delay any proceedings on the appeal until DOGM has a chance to analyze the production from the Mine. Please call me at (801) 573-6881 if you have any questions.

Thank you,

A handwritten signature in black ink, appearing to read 'Clay', with a long horizontal stroke extending to the right.

Clay W. Stucki

CWS/jar

# Exhibit B





GARY R. HERBERT  
Governor

GREGORY S. BELL  
Lieutenant Governor

# State of Utah

## DEPARTMENT OF NATURAL RESOURCES

MICHAEL R. STYLER  
Executive Director

### Division of Oil, Gas and Mining

JOHN R. BAZA  
Division Director

### Inspection Report Minerals Regulatory Program October 1, 2009

Reviewed: PJB

Mine Name: Clark 1/Emeryide	Permit Number: S/015/0053
Operator Name: Robert Clark	Inspection Date: 08/20/2009
Inspector(s): Brett Gregory for Wayne Western	Time: 3:30 pm
Other Participants: None	Mine Status: Inactive

Elements of Inspection	Evaluated	Comment	Enforcement
1. Permits, Revisions, Transfer, Bonds	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
2. Public Safety (shafts, adits, trash, signs, highwalls)	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
3. Protection of Drainages / Erosion Control	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
4. Deleterious Material	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
5. Roads (maintenance, surfacing, dust control, safety)	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
6. Concurrent Reclamation	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
7. Backfilling/Grading (trenches, pits, roads, highwalls, shafts, drill holes)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
8. Water Impoundments	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
9. Soils	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
10. Revegetation	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
11. Air Quality	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
12. Other	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**Bond Amount:** \$5,400

**Permit fee:** Current

**Purpose of Inspection:** This was a routine inspection of the site.

#### Inspection Summary:

- 2) There are a few loose pieces of garbage that can be cleaned up, although nothing too significant.
- 3) A sediment trap should be constructed in one of the photographs documented below, and the other trap shown needs minor maintenance.
- 5) Deep ruts have formed on the haul road coming up from the portal. I would suggest the installation of a water bar and ditch to control runoff.

**Conclusions and Recommendations:** There really is very little work needing to be done on site. Other than the minor trash to be removed and rain runoff issues, the site is stable.

DOGM will continue to monitor the site.

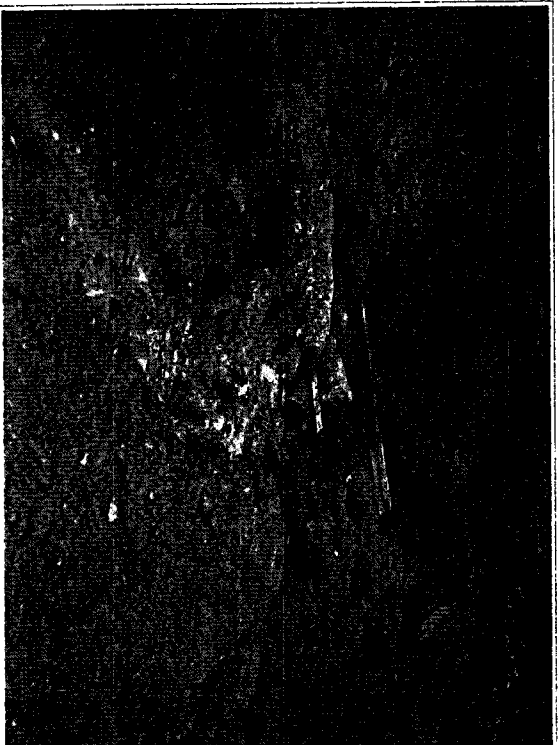
**Inspector's Signature**

BG:vs

cc: Bob Clark, Operator  
Chris Conrad, Price BLM

P:\GROUPS\MINERALS\WPM\015-Emery\S0150053-RobertClark\inspections\insp-08202009.doc





A sediment trap or something like it should be installed here.



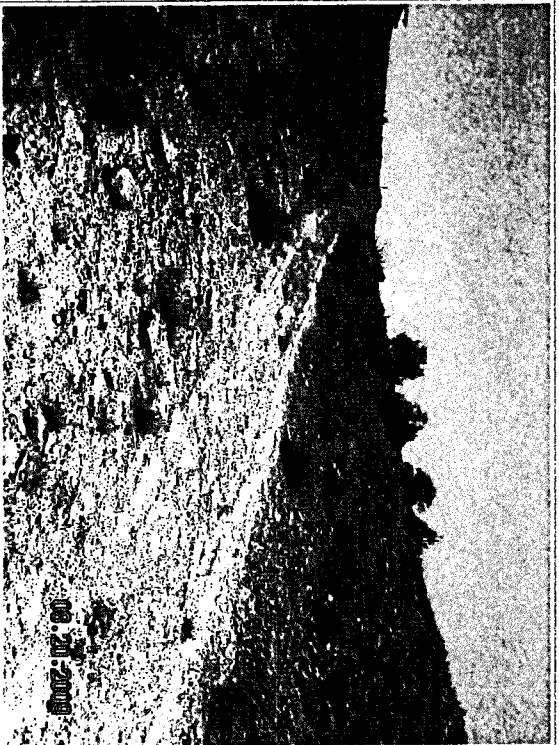
Sediment trap fallen under disrepair.



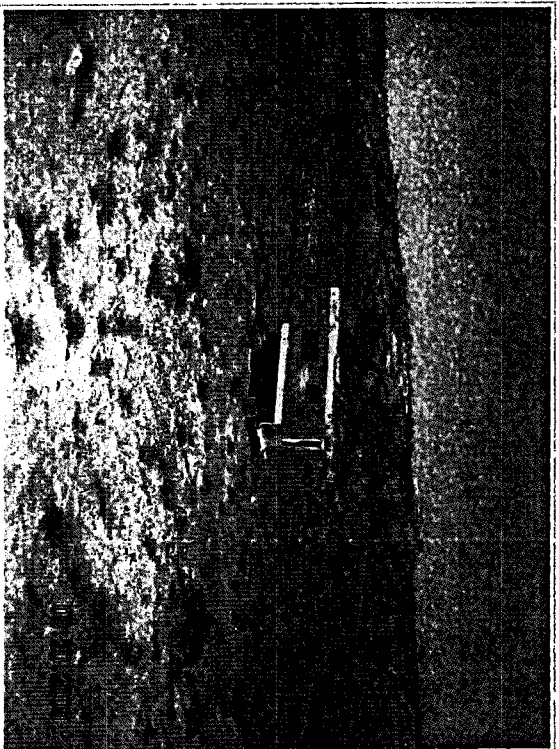
Trash can be cleaned up.



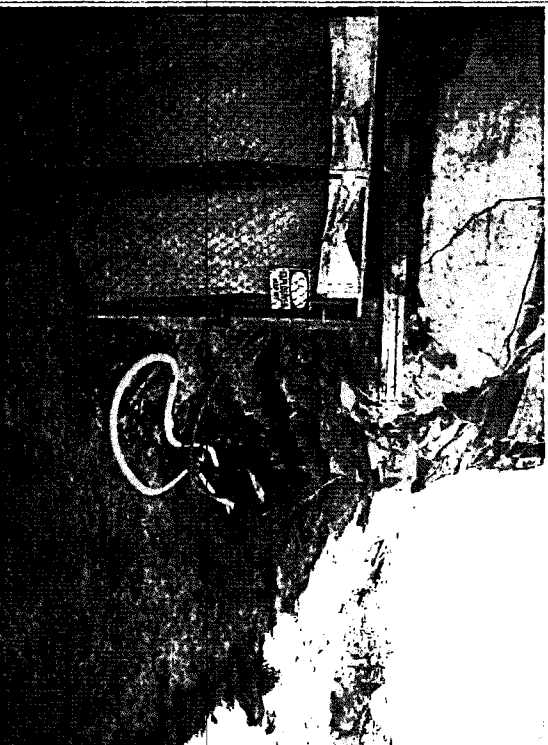
More trash.



Access road.



Camper left on site.



Mine portal.



The road shown here exiting is developing deep ruts.